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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,748	09/22/2003	Michael J. Oister	43108.830016.US0	1887
26582	7590	08/12/2004	EXAMINER	
HOLLAND & HART, LLP 555 17TH STREET, SUITE 3200 DENVER, CO 80201			CHAMBERS, MICHAEL S	
			ART UNIT	PAPER NUMBER
			3711	
DATE MAILED: 08/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/667,748

Applicant(s)

OISTER ET AL.

Examiner

Mike Chambers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the lip as described in claim 4. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As far as understood, it is unclear from the specification how the telescoping members can be telescoping and have a lip to prevent removal.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 8, 12-15, 18, 19, are rejected under 35 U.S.C. 102(b) as being anticipated by Silvi. Silvi discloses a

a plurality of tubular members forming a frame; the frame defining at least one goalmouth; at least one of the tubular members forming the frame is an extendible tubular member; at least one tubular extension; the at least one tubular extension slidably connected to the extendible tubular member, such that the at least one tubular extension slidably moves from a first un-extended position to a second extended position; and at least one locking device to lock the at least one tubular extension in at least the second extended position, whereby the sport goal is convertible from a first type of sport goal to a second type of sport goal. (fig 1, fig 5, 1:60-65).

As to claim 5 : Silvi discloses vertical tubing extensions (fig 5, 1:60-65).

As to claim 8 : Silvi discloses a blocked goalmouth (2:21-25).

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As to claim 12 : See claim 1 rejection.

As to claim 13 : Silvi discloses a tubing extension (fig 5, 1:60-65).

As to claim 14 : Silvi discloses two vertical tubing extension (fig 5, 1:60-65).

As to claim 15 : Silvi discloses a locking means (3:43-46).

As to claims 18 and 19: See claim 1 rejection. The method claimed would naturally be used by one using the device of Silvi.

Also,

Claims 1, 5, 12-15, 18,19, are rejected under 35 U.S.C. 102(b) as being anticipated by Scheie. Scheie discloses a

a plurality of tubular members forming a frame; the frame defining at least one goalmouth; at least one of the tubular members forming the frame is an extendible tubular member; at least one tubular extension; the at least one tubular extension slidably connected to the extendible tubular member, such that the at least one tubular extension slidably moves from a first un-extended position to a second extended position; and at least one locking device to lock the at least one tubular extension in at least the second extended position, whereby the sport goal is convertible from a first type of sport goal to a second type of sport goal. (fig 1, fig 2, ).

As to claim 5 : Scheie discloses vertical tubing extensions (fig 1, item 16).

As to claim 12 : See claim 1 rejection.

As to claim 13 : Scheie discloses a tubing extension (fig 1, item 16).

As to claim 14 : Scheie discloses two vertical tubing extension (fig 1, item 16).

As to claim 15 : Scheie discloses a locking means (fig 1, 2:62-65).

As to claims 18 and 19: See claim 1 rejection. The method claimed would naturally be used by one using the device of Silvi.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 6, 7, 16, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silvi in view of Kruse. Silvi discloses the elements of claim 2, however it fails to clearly disclose the use of a spring loaded pin. Kruse discloses the use of a spring loaded pin (fig 3). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the spring loaded pin of Kruse with the apparatus of Silvi in order to easily adjust the height and prevent the potential loss of the holding pin.

As to claim 3: Kruse discloses a pushbutton (48).

As to claims 6 and 7: Kruse discloses an adjustable horizontal goal (Abstract lines 6-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the spring loaded pin of Kruse with the apparatus of Silvi in order to easily adjust the width of the goal to accommodate other sports.

As to claims 16 and 17: See claims 6 and 7 rejection.

Claim 4 as well as understood is rejected under 35 U.S.C. 103(a) as being unpatentable over Scheie in view of Official Notice. Official Notice is taken that it is well known in the art to use telescoping members. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected any one of several equivalent attachment/constraining means based on cost and design considerations.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silvi in view of Heden. Silvi discloses the elements of claim 9, however it fails to disclose a sheet material and target. Heden discloses a sheet material and target (2:50-60, fig 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the sheet material and target of Heden with the apparatus of Silvi in order to permit the goal to be used as a practice device.

As to claim 10: Heden discloses a net (fig 1).

As to claim 11: Heden discloses at least one target block coupled to at least one sheet material net (fig 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the sheet material and target of Heden with the apparatus of Silvi in order to permit the goal to be used as a practice device.

Claims 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheie in view of Frantti. Scheie discloses the elements of claim 20, however it fails to a plurality of targets. Frantti discloses a plurality of targets (fig 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed



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the plurality of targets of Frantti with the apparatus of Scheie in order to permit the goal to be used as a practice device .

As to claim 21: Frantti discloses a target block (fig 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the plurality of targets of Frantti with the apparatus of Scheie in order to permit the goal to be used as a practice device .

As to claim 22: Scheie discloses an extendable tubular member (abstract lines 4-6, fig 1).

As to claim 23: Frantti discloses a target block for hockey (fig 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the plurality of target of Frantti with the apparatus of Scheie in order to permit the goal to be used as a hockey and soccer goal. .

As to claim 24-25: Frantti discloses a first and second material (net and block) (fig 1). ). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the plurality of targets of Frantti with the apparatus of Scheie in order to permit the goal to be used as a practice device .

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scheie in view of Frantti and further in view of Official Notice. Official Notice is taken that it is well known in the art to use elastic members to attach a net to a goal. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected any one of several equivalent attachment means based on cost and design considerations.



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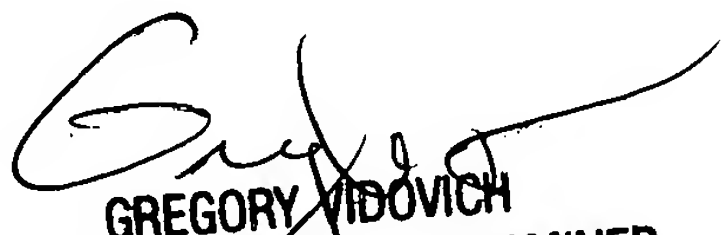
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 703-306-5516. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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August 4, 2004

  
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